

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MIANKANZE BAMBA,

Plaintiff,

19-CV-8646 (LJL) (VF)

ORDER

-against-

U.S. DEPARTMENT OF HOMELAND
SECURITY-FPS, ALEJANDRO MAYORKAS,
Secretary of the Department of Homeland Security,

Defendants.

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VALERIE FIGUEREDO, United States Magistrate Judge:

The pending motion for summary judgment (ECF No. 76) appears to have been brought on behalf of only Alejandro Mayorkas, Secretary of the Department of Homeland Security. See, e.g., ECF Nos. 77 at 1, 90 at 1. Yet, the U.S. Department of Homeland Security-FPS still appears on the docket as a named defendant in this action.

It is well-settled that the only proper defendant in a Title VII suit brought by a government employee is “the head of the department, agency, or unit.” See Vargas v. United States Postal Serv., No. 05-CV-4447 (BSJ), 2007 WL 9817927, at *5 (S.D.N.Y. Jan. 29, 2007) (quoting 42 U.S.C. § 2000e-16 (c)); Correa v. Carnahan, No. 22-CV-10213 (ALC), 2022 WL 17805623, at *1 (S.D.N.Y. Dec. 19, 2022) (“Employment discrimination actions brought by government employees under Title VII . . . must be brought against the head of the agency in which the allegedly discriminatory acts occurred.”) (citation omitted); see also Williams v. Soc. Sec. Admin., No. 23-CV-2348 (LTS), 2023 WL 3728375, at *5 (S.D.N.Y. May 30, 2023) (“The proper defendant for [Title VII] claims brought by a current or former federal employee is the head of the relevant agency.”) (citation omitted); Drayton v. U.S. Dep’t of Veterans Affairs, 654 F. Supp. 558, 562 (S.D.N.Y. 1987) (“It is clear from the language of [Title VII] that suit must be

brought against the head of the agency . . . An action may not be brought against the agency itself."); Healy v. U.S. Postal Serv., 677 F. Supp. 1284, 1287 (E.D.N.Y. 1987) (noting that “[i]n commencing a [Title VII] civil action against a department of the United States” the “party bringing the action must name the head of the agency or department as this is the only proper party defendant.”) (collecting cases).

Defendants are directed to file a letter by no later than **Thursday, June 29, 2023**, explaining whether any of the arguments briefed in the summary judgment motion apply to Defendant the U.S. Department of Homeland Security-FPS as well.

SO ORDERED.

DATED: New York, New York
June 22, 2023



VALERIE FIGUEREDO
United States Magistrate Judge